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10/572,692	10/20/2006	Dieter Kraft	10191/4309	4955

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER	
YACOB, SISAY	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/572,692	KRAFT, DIETER	
	Examiner	Art Unit	
	SISAY YACOB	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *1-10* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 October 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1 The application of Kraft for "Method and device for controlling a radiation source" filed on October 20, 2006 has been examined.

Claims 1-10 are canceled by preliminary amendment.

Claims 11-20 are introduced by preliminary amendment.

Claims 11-20 are pending.

Note:

2 **The instant application # 10/572,692 of Dieter Kraft and the U.S. Patent 7,400,266 B2 to Karsten Haug, which have different inventors, but share common Assignee: Robert Bosch GmbH both claim foreign priority to the same German application (# DE 103 43 479.8).**

Double Patenting

3 The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4 **Claims 11-14 and 19 are non- provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1-6 and 18-19 of U.S. Patent No. 7,400,266 B2.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Regarding claim 11, the scope of the claimed limitations of the instant application as claimed in claim 11 is essentially similar to that of claims 1 of the U.S. Patent No. **7,400,266 B2**. Since claim 11 of the instant application is a boarder version of the narrow claim 1 of the U.S. Patent No. **7,400,266 B2,** the narrower claim 1 anticipates the broader claim 11. Therefore, the claimed limitations as claimed in the instant application and the claimed limitations in the **7,400,266 B2** are not patentably distinct from each other.

Regarding claim 19, the scope of the claimed limitations of the instant application as claimed in claim 19 is essentially similar to that of claims 1, 18 and 19 of the U.S. Patent No. **7,400,266 B2**. Since claim 19 of the instant application is a boarder version of the narrow claims 1, 18 and 19 of the U.S. Patent No. **7,400,266 B2,** the narrower claims 1, 18 and 19 anticipates the broader claim 19.

Therefore, the claimed limitations as claimed in the instant application and the claimed limitations in the **7,400,266 B2** are not patentably distinct from each other.

Regarding claims 12-14, the scope of the dependent claimed limitations of claims 12-14 of the instant application are essentially similar to that of dependent claims 2-6 of the U.S. Patent No. **7,400,266 B2**.

This is a **non-provisional** obviousness-type double patenting rejection, because the conflicting claims have in fact been patented.

Claim Rejections - 35 USC § 102

5 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6 **Claims 11, 15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Publication of Bechtel et al. (20020043612 A1).**

As to claim 11, Bechtel et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract; Page 3, Par. 0041) comprising: monitoring by at least one sensor (Item 34) at least part of the illumination range for a presence of at least one object (Page 3, Par. 0039-0040); generating by the at least one sensor a sensor signal as a function of the at least one object present (Page 3, Par. 0040); and performing at least one of the

following as a function of the sensor signal: switching off the at least one radiation source Page 3, Par. 0038; Page 3, Par. 0041), and a radiation intensity of the radiation source (Page 3, Par. 0038; Page 3, Par. 0041).

As to claim 15, Bechtel et al. discloses the radiation intensity of the radiation source is regulated as a function of the sensor signals (Page 3, Par. 0039).

As to claim 17, Bechtel et al. discloses determining an approach to the at least one object from the sensor signal, wherein the radiation source is one of switched off and regulated as a function of the approach to the at least one object (Page 3, Par. 0039-0040).

As to claim 19, Bechtel et al. discloses a device for controlling a radiation source illuminating an illumination range (Abstract; Item 20) comprising: at least one sensor (Item 34) configured in such a way that the at least one sensor monitors at least part of the illumination range of the radiation source for a presence of at least one object (Page 3, Par. 0039-0040), the at least one sensor generating a sensor signal as a function of the at least one object present (Page 3, Par. 0040), at least one processing unit (Item 36) that as a function of the sensor signal (Page 3, Par. 0039-0040), at least one of switches off the radiation source (Page 3, Par. 0038; Page 3, Par. 0041) and reduces an intensity of the radiation source (Page 3, Par. 0038; Page 3, Par. 0041).

Rejections - 35 USC § 103

7 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8 The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9 **Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Publication of Holz et al. (20020181240 A1).**

As to claim 12, Bechtel et al. does not expressly disclose the radiation source includes a headlight emitting light at least in a near infrared wavelength range.

Holz et al. discloses a radiation source for improved vision for a vehicle (Abstract) that includes a headlight emitting light at least in a near infrared wavelength range (Page 2, Par. 0030).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of

Bechtel et al., by incorporating the headlight emitting light at least in a near infrared wavelength range, as disclosed by Holz et al., in order to have a method for controlling at least one radiation source an illumination range, wherein the radiation source includes a headlight emitting light at least in a near infrared wavelength range, because Holz et al. suggests it would improve the vision for a vehicle operator, specially, at night and during inclement weather condition, which is a desirable feature to have in order to enhance safety.

As to claim 20, Bechtel et al. does not expressly disclose the device is used in a night vision system of a motor vehicle.

Holz et al. discloses a device for illuminating radiation source for improved vision in a vehicle (Abstract) that includes a device that is used in a night vision system of a motor vehicle (Page 2, Par. 0026).

It would have been obvious to one skilled in art at the time the invention was made to modify the device for controlling at least one radiation source of Bechtel et al., by incorporating the device for night vision, as disclosed by Holz et al., in order to have a device for controlling a radiation source illuminating an illumination range, because both prior arts are directed to solving the same problem and Holz et al. discloses the claimed limitations.

10 **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Patent to Stam et al. (6,611,610 B1) and further in view of U.S. Patent to Lemelson et al. (6,226,389 B1).**

As to claim 13, Bechtel et al. does not expressly disclose at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, at least one LIDAR sensor, and at least one video sensor.

Stam et al. discloses a method for controlling at least one radiation source (Abstract) that includes at least one sensor includes at least one of: at least one ultrasound sensor (Col. 45, line 58 – Col. 46, line 14), at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz (Col. 45, line 58 – Col. 46, line 14).

It would have been obvious to one skilled in art at the time the invention was made to modify a method for controlling at least one radiation source of Bechtel et al., by incorporating the ultrasound and radar sensors, as disclosed by Stam et al., in order to have a method for controlling at least one radiation source an illumination range, wherein the at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, because both prior arts are directed to solving the same problem and Stam et al. discloses a sensor that includes at least one ultrasound sensor and at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz.

The combination of Bechtel et al. and Stam et al. does not expressly disclose at least one LIDAR sensor, and at least one video sensor.

Lemelson et al. discloses a method for warning and controlling at least one radiation source (Abstract; Col. 5, lines 20-64) that includes at least one

sensor of LIDAR sensor (Col. 5, line 65 – Col. 6, line 12), and at least one video sensor (Col. 5, line 65 – Col. 6, line 12).

It would have been obvious to one skilled in art at the time the invention was made to modify the combination of Bechtel et al. and Stam et al., by incorporating the LIDAR and video sensors, as disclosed by Lemelson et al., in order to have a method for controlling at least one radiation source that includes at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, at least one LIDAR sensor, and at least one video sensor, because all the prior arts both prior arts are directed to solving the same problem and Lemelson et al. discloses the claimed limitations. Furthermore, it would be a designer's choice as to what type of conventional sensor/s to employ.

11 **Claims 14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Patent to Bos et al. (6,396,397 B1).**

As to claim 14, Bechtel et al. does not expressly disclose de-activating the radiation source if a distance to the at least one object is less than a limiting value.

Bos et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract), wherein dimming the radiation source if a distance to the at least one object is less than a limiting value (Col. 4, lines 24-64).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the controlling of radiation intensity, as disclosed by Bos et al., in order to have a method for controlling at least one radiation source an illumination range, wherein de-activating the radiation source if a distance to the at least one object is less than a limiting value, because both prior arts are directed to solving the same problem and Bos et al. discloses dimming the radiation source if a distance to the at least one object is less than a limiting value, so one skilled in the art readily understand the radiation source may also be de-activated in staid of dimming and/or both.

As to claim 16, Bechtel et al. does not expressly disclose the radiation intensity is approximately proportional to at least one of an approach to the at least one object and a distance to the at least one object.

Bos et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract), wherein a radiation intensity is approximately proportional to at least one of an approach to the at least one object and a distance to the at least one object (Col. 1, lines 48-65).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the radiation intensity setting, as disclosed by Bos et al., in order to have a method for controlling at least one radiation source an illumination range, wherein the radiation intensity is approximately proportional to at least one of an approach to the at least one object and a distance to the at

least one object, because both prior arts are directed to solving the same problem and Bos et al. discloses the claimed limitations.

As to claim 18, Bechtel et al. does not expressly disclose a warning for the at least one object present, the warning corresponding to at least one of acoustic warning signal and a visual warning signal.

Bos et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract), wherein a warning signal being issued by the controller for the at least one object present (Abstract; Col. 4, lines 44-64).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the warning signal, as disclosed by Bos et al., in order to have a method for controlling at least one radiation source an illumination range, wherein a warning for the at least one object present, the warning corresponding to at least one of acoustic warning signal and a visual warning signal, because Bos et al. discloses having a warning signal in response to at least one object present and one skilled in the art may utilized any of the conventional warning signals including a warning corresponding to at least one of acoustic warning signal and a visual warning signal. Furthermore, it would be a designer's choice as to what type of conventional warning signal to employ.

Conclusion

12 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following cited arts are further to show the sate of art related to method and device for controlling a radiation source.

The U.S. Patent (20050269481 A1) to David et al. discloses an imaging and display systems applicable for vehicular use and to operation methods implemented in such systems.

The U.S. Patent (7038577 B2) to Pawlicki et al. discloses a vision or imaging systems for vehicles and is related to object detection systems and, more particularly, to imaging systems which are operable to determine if a vehicle or object of interest is adjacent to, forward of or rearward of the subject vehicle to assist the driver in changing lanes or parking the vehicle. The present invention also relates generally to a lane departure warning system for a vehicle.

Correspondence

13 Any inquiry concerning this communication or earlier communications from the examiner should be directed to SISAY YACOB whose telephone number is (571)272-8562. The examiner can normally be reached on Monday through Friday 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery A. Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sisay Yacob
9/27/2008

/S. Y./
Examiner, Art Unit 2612

/Jeff Hofsass/
Supervisory Patent Examiner, Art Unit 2612